

Court. Accordingly, the Court will entertain a motion by Plaintiff for the entry of an agreed notice of nonsuit containing a tolling provision that will permit this case to be re-filed in the event that the IRS denies Plaintiff's refund request.

Plaintiff is hereby **ORDERED** to file such a motion, if at all, within ten days of the issuance of this Memorandum and Order. A proposed agreement should be attached as an exhibit to the motion. Defendants are **ORDERED** to respond to the motion, if at all, within ten days of its filing. Pursuant to this Court's local rules, a failure to respond will be construed as a representation of no opposition. *See* L.R. 7.4.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 10th day of July, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**